



BILLING CODE 4210-67

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5763-N-12]

Implementation of the Privacy Act of 1974, as amended;

Modification to, Deletion of, and Creation of New System of Records - HUD Enforcement Management System (HEMS)

AGENCY: Office of the Chief Information Officer, Housing and Urban Development.

ACTION: Notice publication.

SUMMARY: Pursuant to the Privacy Act of 1974 (U.S.C. 552a (e)(4)), as amended, and Office of Management and Budget (OMB), Circular No. A-130, notice is hereby given that the Department of Housing and Urban Development (HUD), Office of General Counsel's Departmental Enforcement Center (OGC/DEC) and the Office of Fair Housing and Equal Opportunity (FHEO) propose to delete the following systems of records and create a new system of records: the HUD Enforcement Management System (HEMS). HEMS is part of the Department's efforts to streamline, consolidate, and automate the Department's enforcement business processes. HEMS will replace three legacy HUD enforcement systems: 1) Title Eight Paperless Online Tracking System (FR-5386-N-04) which tracks and manages housing discrimination complaints for Fair Housing and Equal Opportunity, 2) Compliance Case Tracking System (HUD/EC-01) which tracks and manages HUD's suspensions and debarements for HUD's Enforcement Center, and 3) Departmental Tracking System (HUD/EC-02) which tracks and manages timely processing and closure of physical, financial, and non-filer cases for HUD's Enforcement Center. The HEMS system will deliver operational efficiencies currently unavailable by existing enforcement technology. Implementation of the new system enables collaboration across multiple HUD enforcement offices through a shared database. The existing

scope, objectives, and business processes in place for the above mentioned programs remain unchanged. A more detailed description of the present system is contained in the notice purpose section. Furthermore, this notice supersedes system of records notices published in the Federal Register for the above notices being replaced by HEMS.

DATES: Effective Date: The proposed modification will be effective immediately with the exception to the newly created system and routine uses, which will become effective without further notice on **[INSERT DATE 30-DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]** unless comments are received that would result in a contrary determination.

COMMENTS DUE DATE: [INSERT DATE 30-DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Interested persons are invited to submit comments regarding this notice to the Rules Docket Clerk, Office of the General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 10276, Washington, DC 20410-0500.

Communication should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection and copying between 8:00 am and 5:00 pm weekdays at the above address.

FOR FURTHER INFORMATION CONTACT: Donna Robinson-Staton, Chief Privacy Officer, 451 Seventh Street SW, Washington, DC 20410 (Attention: Capitol View Building, 4th Floor), telephone number: (202) 402-8073. [The above telephone number is not a toll free number.] A telecommunications device for hearing- and speech-impaired persons (TTY) is available by calling the Federal Information Relay Service's toll-free telephone number (800) 877-8339.

SUPPLEMENTARY INFORMATION: This system of records is maintained by HUD's Office of General Counsel and the Office of Fair Housing and Equal Opportunity. The system includes personally identifiable information provided to HUD that is retrieved from the system of records by a name or unique identifier. The system encompasses programs and services of the Department's data collection and management practices. Publication of this notice allows HUD to satisfy its reporting requirement and keep an up-to-date accounting of its system of records publications. The new system proposal will incorporate Federal privacy requirements, and HUD policy requirements. The Privacy Act provides certain safeguards for individuals against invasions of personal privacy by requiring Federal agencies to protect records contained in an agency system of records from unauthorized disclosure, by ensuring that information is current and collected only for its intended use, and by providing adequate safeguards to prevent misuse of such information. Additionally, this notice demonstrates the Department's focus on industry best practices in protecting the personal privacy of the individuals covered by this system notification.

This notice states the name and location of the record system, the authority for and manner of its operations, the categories of individuals that it covers, the type of records that it contains, the sources of the information for those records, the routine uses made of the records and the types of exemptions in place for the records. In addition, the notice includes the business addresses of the HUD officials who will inform interested persons of the procedures whereby they may gain access to and/or request amendments to records pertaining to them.

This publication does meet the threshold requirements for filing a report to the Office of Management and Budget (OMB), the Senate Committee on Homeland Security and Governmental Affairs, and the House Committee on Government Reform as instructed by

Paragraph 4c of Appendix I to OMB Circular No. A-130, "Federal Agencies Responsibilities for Maintaining Records About Individuals," July 25, 1994 (59 FR 37914).

AUTHORITY: 5 U.S.C. 552a; 88 Stat. 1896; 42 U.S.C. 3535(d).

Dated: October 3, 2014.

Rafael C. Diaz,
Chief Information Officer.

SYSTEM OF RECORDS NO.: OGC/EGID.01

SYSTEM NAME: HUD Enforcement Management System (HEMS), V05.

SYSTEM LOCATION: Electronic Records reside on HUD Network servers at 2020 Union Carbide Drive South Charleston West Virginia 25303-2734. The Paper Records are located at the office where the investigation originated and may also be transferred to associated area and/or Regional Offices, or the Headquarters Office. **Housing and Discrimination**

Complaint Case Management Record locations: In addition to HUD's headquarters building located at 451 Seventh Street SW, Washington, DC 20410, HUD also operates Regional and Field Office locations where Privacy Act records may in some cases be maintained or accessed, including: Baltimore MD; Boston, MA; Pittsburgh, PA; Hartford, CT; Richmond, VA; New York, NY; Newark, NJ; Atlanta, GA; Buffalo, NY; San Juan, Puerto Rico; Philadelphia, PA; Louisville, KY; Miami, FL; Birmingham, AL; Knoxville, TN; Greensboro, SC; Chicago, IL; Columbus, OH; Detroit, MI; Minneapolis, MN; Milwaukee, WI; Indianapolis, IN; Cleveland, OH; Jackson MS; Jacksonville, FL; Albuquerque, NM; Little Rock, AR; Houston, TX; Kansas City, KS; St. Louis, MO; Omaha, NE; Denver, CO; Fort Worth, TX; New Orleans, LA; Oklahoma City, OK; Honolulu, HI; Seattle, WA; San Francisco, CA; Los Angeles, CA; Portland, OR; Anchorage, AK. **Debarred, Suspended, or Excluded Enforcement Case**

Management Record Locations: In addition to HUD's headquarters buildings located at 451 7th Street SW, Washington, DC 20410 and 1250 Maryland Avenue SW, Washington, DC 20024, HUD also operates Regional and Field Offices locations where Privacy Act records may in some cases be maintained or accessed, including: Atlanta, GA; Chicago, IL; Ft. Worth, TX; Los Angeles, CA; and New York, NY.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Categories of Individuals covered by this system of records include:

Housing and Discrimination Complaint Case Management Records: Categories of Individuals include: all persons filing a housing discrimination complaint (known as Complainants) and their representatives; all persons and/or organizations identified by Complainants as having committed housing discrimination (known as Respondents) and their representatives; all those investigating and reviewing the housing discrimination complaint.

Debarred, Suspended, or Excluded Enforcement Case Management Records: Categories of Individuals include any individual, corporation, partnership, association, unit of government or legal entity, however organized when proposed for debarment; or the person is debarred, suspended, or voluntarily excluded, or excluded by a Limited Denial of Participation (LDP) action; Any program participant who is a direct or indirect recipient of HUD funds and who is subject to enforcement action due to fraud, waste, abuse and mismanagement of HUD funds. Individuals would include: Mortgagors, mortgagees, partners, partnerships, associations, trustees, boards, board members, managers, developers, sponsors, builders, administrators, executives, tenants, employees, health care providers, vendors, consultants, bidders, brokers, appraisers, borrowers, sellers, contractors, corporations (include non-profits), attorneys, underwriters, inspectors, grant recipients, accountants, real estate and closing agents, companies, and units of government (however organized). Examples of individuals or entities (proposed for debarment, debarred, suspended, or voluntarily excluded): participants who are direct or indirect recipients of HUD funds; and those who represent entities such as contractors or corporations who are participants in HUD FHA assisted or sponsored programs including mortgage insurance programs.

CATEGORIES OF RECORDS IN THE SYSTEM: Categories of records covered by this system of records include:

Housing and Discrimination Complaint Case Management Records: Categories of records in the system include: Personal information that will be maintained in HEMS, including: Name of Complainant, Respondent, Respondent Organization, Witnesses, and Complainant's or Respondent's Representative (if applicable); Home and work address of Complainant, Respondent Organization, and Representative; Contact number for Complainant, Respondent/Respondent Organization, Witnesses, and Representative; Personal information of the Complainant, other aggrieved parties information, the Respondent, and/or witnesses based on the issues and basis of what is alleged in the complaint cases. Also included is race, national origin, disability (mental/physical); family status (pregnancy, families with children under 18); religion types of personal information, documents that may be maintained and found in HEMS; Letters from physicians/medical records (in disability-based/reasonable accommodation claims); Rental lease agreements; Financial and loan information (in fair lending cases); Name, age/date of birth of minor children, and number of dependents (in family status cases, which includes families with children under the age of 18);

Debarred, Suspended, or Excluded Enforcement Case Management Records: Categories of Records in the system include: Name, address, title, job classification; identifying numbers such as social security number, tax identification number, project, and program identification numbers, and violations; sanctions including debarments, suspensions, Limited Denial of Participation (LDP), indictments, judgments, convictions, civil money penalties, reprimands, fines, settlement agreements, foreclosures, removal of program participants, takeovers,

receiverships, 2530 denials, revocation of designation, grant and subsidy sanctions; and all enforcement actions taken by or on behalf of the Department.

Also included system are cross-references documentation when more than one name is involved in a single action; the type of action; the cause of the action; the scope of the action; any termination date for each listed action; and the agency name and telephone number of the agency point of contact for the action. The system also contains records of referrals for administrative sanction action where action is pending or where no action was taken.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM: Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Act of 1988 (42 U.S.C. 3601 et seq.); Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d2000d-7); Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 791 et seq.); Section 109 of Title I of the Housing and Community Development Act of 1974 (42 U.S.C. §§ 5301-5321); Title II of the American Disabilities Act of 1990 (42 U.S.C. 12101 et seq.); Age Discrimination Act of 1975 (42 U.S.C. Sections 6101-107); Title IX of the Education Amendments Act of 1972 (20 U.S.C. 1681-1688), and the Architectural Barriers Act of 1968 (42 U.S.C. 4151 et seq.); Title 2, Code of Federal Regulations (CFR), Parts 180 and 2424; Title 31 U.S.C § 6101; Title 41 U.S.C.; Title 42 U.S.C. § 3533 and § 3535; and Executive Orders 12549 and 12689.

PURPOSE(S): HEMS is the system that maintains case file data when further investigation is warranted, under a filed housing discrimination complaint. This is where the housing discrimination complaint inquiries and case files are documented and stored during the investigation process. Information on the complainants is collected on a case-by-case basis only if relevant to the particular case. The origination of a compliant begins with the origination of the HUD Form 903 (a housing discrimination complaint form). The HUD Form 903 is used for

filing discrimination complaints over unfair housing practices. This form is available in paper and on-line. The public may submit a HUD Form 903 via the internet or by mail. HUD Form 903 collects initial potential case information for assessment and turns the information over to the appropriate regional office jurisdiction. Information gathered through the HUD Form 903 system opens an inquiry with FHEO that is explored through further discussion between FHEO staff and the complainant. These discussions gather additional data that establish jurisdiction and determine whether or not to launch an investigation. HUD's FHEO also uses these records within HEMS to monitor the quality of the investigations performed by authorized non-Federal agencies, and to determine the amount these agencies should be paid for performing the investigation. A paper case file that includes the information tracked in HEMS, as well as additional information, is maintained outside of HEMS.

To the extent permitted by law, executive departments and agencies shall participate in and interface with a government-wide system (currently System for Award Management website at <http://sam.gov/>) for the following purposes: (1) To exclude from Federal financial and non-financial assistance and benefits under Federal programs and activities those who have been debarred or suspended; and (2) to include in the List of Parties Excluded from Federal procurement and non-procurement Programs all persons proposed for debarment, debarred, suspended, or excluded by a Limited Denial of Participation (LDP). This does not include foreign governments or foreign governmental entities, public international organizations, foreign government owned (in whole or in part) or controlled entities, and entities consisting wholly or partially to foreign governments or foreign governmental entities proposed for debarment, suspended, debarred, or voluntarily excluded government- wide, unless otherwise noted, from Federal procurement and sales programs, non-procurement programs, and financial benefits. An

exclusion may be based on the Federal Acquisition Regulation (FAR) 9.4; Federal Property Management Regulation (FPMR) 101-45.6; Government Printing Office (GPO) Instruction 110.11 A; U.S. Postal Service (PS) Publication 41; the Non-procurement Common rule; or the authority of a statute, Executive Orders 12549 and 12689; or regulation applicable to procurement or non-procurement programs.

HEMS also serves the following purposes: (1) To establish an agency-wide database that will allow personnel to access and track information to generate reports on all of the Department's efforts to eliminate fraud, waste, abuse and mismanagement in all HUD programs, and (2) to provide a mechanism to cross reference and match data on individuals against which an enforcement action has been taken or is in the process of being taken. This information may be used to determine whether those individuals are eligible to receive or to continue to receive Federal financial and non-financial assistance and benefits under Federal programs and activities.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

For Housing and Discrimination Complaint Case Management Records: In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, HUD may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

- (a) To individuals under contract to HUD or under contract to another agency with funds provided by HUD, for the purpose of conducting oversight and monitoring of program operations to determine compliance with applicable laws and regulations, and FHEO reporting

requirements (information under this routine use is subject to Privacy Act requirements and limitations on disclosures are applicable to HUD officials and employees);

(b) To State and local agencies certified by HUD to investigate and adjudicate Title VIII housing discrimination complaints, State and local agencies also use TEAPOTS to record investigation information;

(c) To authorized requestors requesting release of records under the Freedom of Information Act (FOIA) and the Privacy Act.

For Debarred, Suspended, or Excluded Enforcement Case Management Records: In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records, or information contained therein, may specifically be disclosed outside of the agency as routine use pursuant to 5 U.S.C. 552a(b)(3) as follows, provided that no routine use listed shall be construed to limit or waive any other routine use specified herein:

(a) To individuals under contract to HUD or under contract to another agency with funds provided by HUD for the purpose of conducting oversight and monitoring of program operations to determine compliance with applicable laws and regulations, and FHEO reporting requirements (individuals provided information under this routine use is subject to Privacy Act requirements and limitation on disclosures are applicable to HUD officials and employees);

(b) To the Internal Revenue Service (IRS), for the purpose of affecting an administrative offset against the debtor for a delinquent debt owed to the U.S. Government by the debtor;

(c) To the Department of Justice (DOJ), for prosecution of fraud and for the institution of suit or other proceedings to effect collection of claims;

(d) To the General Accounting Office (GAO), for further collection action on any delinquent account when circumstances warrant;

(e) To outside collection agencies and credit bureaus, for the purpose of either adding to a credit history file or obtaining a credit history file on an individual for use in the administration of debt collection for further collection action;

(f) To the General Services Administration (GSA), for compilation and maintenance of a list of parties excluded from Federal procurement and non-procurement Programs in accordance with a recommendation from the Interagency Committee on Debarment and Suspension, and identification and monthly distribution of a list of those parties excluded throughout the U.S. Government (unless otherwise noted) from receiving Federal contracts or certain subcontracts, and certain types of Federal financial and non- financial assistance and benefits.

Routine Uses applicable to the above mentioned categories also include:

(a) To appropriate agencies, entities, and persons when: a) HUD suspects or has confirmed that the security or confidentiality of information in a system of records has been compromised; b) HUD has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of systems or programs (whether maintained by HUD or another agency or entity) that rely upon the compromised information; and c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with HUD's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm for purposes of facilitating responses and remediation efforts in the event of a data breach.

(b) To appropriate agencies, entities, and persons to the extent such disclosures are compatible with the purpose for which the records in this system of records were collected, as set forth by

Appendix I¹ – HUD’s Library of Routine Uses published in the Federal Register on July 17, 2012 (77 FR 41996).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

SAFEGUARDS: A User ID and password are required for authentication; Users must sign a Rules of Behavior form prior to being granted system access. These rules emphasize privacy protections of the personally identifiable information in HEMS. Permission restrictions prevent unsolicited and illegal access to another region's data. Manual records are stored in lockable file cabinets; computer facilities are secured and accessible only by authorized personnel, and all files are stored in a secured area. Technical restraints are employed with regard to accessing the computer and data files.

RETENTION AND DISPOSAL: The retention period for the information in HEMS is maintained for the life of the case to support the activity and other enforcement activities that may become related to the case. When the life of the case is closed (the case is no longer needed for administrative or reference use, or to satisfy preservation requirements), and a final determination has been made of the case records, records in the system are maintained in accordance with the approved records schedule, HUD's Records and Disposition Schedule Handbook 2225.6, Appendix 50. Historic or significant investigation files are PERMANENT, pending appraisal by NARA. Files Transfers are made to the National Archives and Records Administration every 5 years, when applicable (Including a listing of restricted data fields, which remain in place 30 years after which a final appraisal is conducted.

¹ <http://portal.hud.gov/hudportal/documents/huddoc?id=append1.pdf>

SYSTEM MANAGER(S): Patrina Munson, Director, Office of Information Services and Communications, Fair Housing and Equal Opportunity, Department of Housing and Urban Development, 451 Seventh Street SW, Room 5118, Washington, DC 20410; and Nina Aten, Management Information Specialist, Office of General Counsel's, Departmental Enforcement Center, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 5118, Washington, DC 20410.

NOTIFICATION AND RECORD ACCESS PROCEDURES: For information, assistance, or inquiries about the existence of records, contact the Chief Privacy Officer, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 4156, Washington, DC 20410 (Attention: Capitol View Building, 4th Floor). Verification of your identity must include original signature and be notarized. Written request must include the full name, Social Security Number, date of birth, current address, and telephone number of the individual making the request.

CONTESTING RECORD PROCEDURES: The Department's rules for contesting contents of records and appealing initial denials appear in 24 CFR Part 16. Additional assistance may be obtained by contacting: U.S. Department of Housing and Urban Development, Chief Privacy Officer, 451 Seventh Street, SW, Washington, DC 20410 (Attention: Capitol View Building, 4th Floor) or the HUD Departmental Privacy Appeals Officers, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington DC 20410. The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting:

(i) CONTESTING CONTENTS OF RECORDS: Department of Housing and Urban Development, Chief Privacy Officer, 451 Seventh Street, SW, Washington, DC 20410 (Attention: Capitol View Building, 4th Floor);

(ii) APPEALS OF INITIAL HUD DETERMINATIONS: In relation to contesting contents of records, the HUD Departmental Privacy Appeals Officers, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410.

RECORD SOURCE CATEGORIES: Information is obtained from the record subject and from the HUD Multifamily Integrated Real Estate Management System (iREMS). Additionally, the information in this system of records is obtained from anyone who has information to provide concerning the existence of a cause for administrative sanction. Examples of record sources include, but are not limited to HUD employees, Federal government agencies, non-federal government agencies, Federal and state courts, financial institutions, state and local law enforcement offices, and regulatory or licensing agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT: The housing discrimination related records in HEMS are maintained for use in civil rather than criminal actions and are prohibited from disclosure pursuant to exemption 5 U.S.C. § 552a(d)(5) of the Privacy Act.